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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Hovey Williams LLP
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02/08/2007

EXAMINER

LOFTIS, JOHNNA RONEE

ART UNIT	PAPER NUMBER
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3623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/052,577

Applicant(s)

MAGQUIRK ET AL.

Examiner

Johnna R. Loftis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a final office action upon examination of application number 10/052577.

Claims 1-20 are pending and have been examined on the merits discussed below.

Response to Arguments

2. Applicant's arguments with respect to previous rejections under 35 USC 112 have been fully considered and are persuasive. The rejection of claims 1-20 under 35 USC 112 has been withdrawn.

3. Applicant's arguments filed 12/28/06 have been fully considered but they are not persuasive. Applicant has amended the claims to include analyzing historical interactions with customer including at least one non-purchaser. Applicant argues that Geerlings' "shopping activity" is equated to other transactions. While shopping activity is equated with actual transactions in parts of the specification, it is clear that the "shopping activity" of Geerlings includes other non-transaction information such as complaints (see column 4, lines 18-31 wherein the shopping activity portion of information includes, among other things, visits or communications by the customer (complaints or suggestions), etc. Previous rejections are upheld.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-8, 11-15 and 17-20** are rejected under 35 U.S.C. 102(b) as being anticipated by Geerlings, US 5,956,693.

As per **claim 1**, Geerlings teaches statistically analyzing a collection of data representing historical interactions with a plurality of previous customers including at least one non-purchaser (column 3, lines 9-40 – customer purchases and other shopping activity are tracked to segment customers and enhance marketing communication); developing at least one recommended action item to be taken with respect to a current customer based on results of the statistical analysis (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent); and automatically updating an electronic schedule with at least one task representing the at least one recommended action item (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent).

As per **claim 2**, Geerlings teaches developing more than one recommended action item (column 5, lines 32-35 – the merchant schedules transmitting communications on recurring basis

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and column 6, lines 40-42 – reference is made to sending different communications to the same customer); and automatically updating the electronic schedule with more than one task, wherein the electronic schedule is updated with a task that corresponds to each of the recommended action items (column 5, lines 32-35 – the merchant schedules transmitting communications on recurring basis)

As per **claim 3**, Geerlings teaches statistically analyzing a collection of data representing historical interactions with a plurality of previous customers that include at least one purchaser and at least one-non purchaser (column 3, lines 9-40 – customer purchases and other shopping activity are tracked to segment customers and enhance marketing communication, included is purchasing data and a consumer's product category interest, i.e., a consumer is only interested in a product, no purchase made).

As per **claim 4**, Geerlings teaches developing at least one recommended action item to be taken with respect to a current customer based on at least one rule that is applied to the collection of data representing historical interactions with the plurality of previous customers (column 4, line 58 – column 5, line5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent, rules for sending offers are based on the product purchased, i.e., if a customer purchases a certain appliance and extended warranty offer is sent to the customer).

As per **claim 5**, Geerlings teaches developing at least one recommended action item to be taken with respect to a specific current customer based on a determination that the collection of data representing historical interactions with the plurality of previous customer shows that the

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specific current customer has not been contacted for a predetermined amount of time (column 5, lines 14-19 – the system analyzes how long ago a customer purchased a product in order to plan communication; if it has been more than 60 days since the purchase, communication is planned).

As per **claim 6**, Geerlings teaches determining at least one pattern demonstrated by a group of the plurality of previous customers (column 5, lines 19-24 – customer data is analyzed for trends, i.e., a customer's 10th purchase from the merchant).

As per **claim 7**, Geerlings teaches determining at least one trend based on environmental data characteristics (column 5, lines 6-9 – any combination of criteria based on age, gender, geographical location, shopping activity may be used to target the customer).

As per **claim 8**, Geerlings teaches determining at least one trend based on an environmental data characteristic selected from the group consisting of product type, product cost, customer target cost, customer gender, customer age, salesperson's gender, the weather and salesperson's age (column 5, lines 6-9 – any combination of criteria based on age, gender, geographical location, shopping activity may be used to target the customer).

As per **claim 11**, Geerlings teaches determining the recommended action item includes selecting an appropriate task type (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent, rules for sending offers are based on the product purchased, i.e., if a customer purchases a certain appliance and extended warranty offer is sent to the customer).

As per **claim 12**, Geerlings teaches determining the recommended action item includes selecting an appropriate task type selected from the group consisting of sending flowers, send an email, contacting by telephone, sending a gift, sending a newsletter and sending a gift certificate (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent, rules for sending offers are based on the product purchased, i.e., if a customer purchases a certain appliance and extended warranty offer is sent to the customer).

As per **claim 13**, Geerlings teaches the recommended action item includes selecting a timing and frequency for the at least one task (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent).

As per **claim 14**, Geerlings teaches statistically analyzing a collection of data representing historical interactions between a single sales entity and a plurality of previous customers (column 3, lines 9-40 – customer purchases and other shopping activity are tracked by a merchant to segment customers and enhance marketing communication)

As per **claim 15**, Geerlings teaches statistically analyzing a collection of data representing historical interactions between a plurality of sales entities and a plurality of previous customers (column 16, lines 13-34 – different branches, departments and/or sites of the company utilize the system as though they are separate merchants)

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As per **claim 17**, Geerlings teaches statistically analyzing a collection of data representing historical interactions with a plurality of previous customers including at least one non-purchaser (column 3, lines 9-40 – customer purchases and other shopping activity are tracked to segment customers and enhance marketing communication); developing at least one recommended action item to be taken with respect to a current customer based on results of the statistical analysis (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent); and performing a task representing the at least one recommended action item (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent).

As per **claim 18**, Geerlings teaches performing the task in response to a user directive (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent, rules for sending offers are based on the product purchased, i.e., if a customer purchases a certain appliance and extended warranty offer is sent to the customer).

As per **claim 19**, Geerlings teaches automatically performing the task (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for

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desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent).

As per **claim 20**, it is the system with means for performing the method of claim 17.

Since Geerlings teaches a computer system wherein customer data is analyzed to develop a plan for targeted communication the same rejection as applied to claim 17 is applied to claim 20.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 9 and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Geerlings, US 5,956,693.

As per **claim 9**, Geerlings teaches scheduling desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent based on the product purchased but does not explicitly teach automatically rescheduling the task if it is not performed as scheduled. Geerlings however teaches generating trigger statements wherein a criterion is set that triggers an action, i.e., send a communication after a predetermined amount of time. In view of the triggers in Geerlings, official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to generate a trigger wherein if a communication is not sent as scheduled, i.e., network error, the communication is rescheduled to

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be sent. This would ensure communications to customers are sent regardless of any glitch in the system.

As per **claim 10**, Geerlings teaches scheduling desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent based on the product purchased but does not explicitly teach automatically re-assigning the task if it is not performed as scheduled. Geerlings however teaches generating trigger statements wherein a criterion is set that triggers an action, i.e., send a communication after a predetermined amount of time. In view of the triggers in Geerlings, official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to generate a trigger wherein if a communication is not sent as scheduled, i.e., network error, the communication is rescheduled to be sent. This would ensure communications to customers are sent regardless of any glitch in the system.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Geerlings, US 5,956,693, further in view of Kramer et al, US 6,327,574.

As per **claim 16**, Geerlings does not explicitly teach statistically analyzing a collection of data that has been stripped of client confidential information and represents historical interactions between a plurality of sales entities and a plurality of previous customers. However, Kramer et al teaches removing confidential consumer information while still allowing targeted marketing to take place. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the removal of confidential consumer information, as a way to ensure customer information will not end up in the wrong hands.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL
2/2/07



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